

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fenkel	Team: Squad #14	CCRB Case #: 201701559	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 02/24/2017 10:38 PM	Location of Incident: § 87(2)(b) 73rd Precinct stationhouse	Precinct: 73	18 Mo. SOL 8/24/2018	EO SOL 8/24/2018	
Date/Time CV Reported Tue, 02/28/2017 3:12 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 02/28/2017 3:12 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POF Stacey Hulse	10149	960692	073 PCT
3. An officer			
4. POM Nicholas Viruet	31374	954408	073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Aaron Meneses	31855	955187	073 PCT
2. POF Stephanie Williams	19313	959377	073 PCT
3. POF Ruth Donald	18920	962368	073 PCT
4. LT Stephen Sperrazza	00000	939516	073 PCT
5. POM Jonathan Aquino	15569	957337	073 PCT
6. POM Sean Slowski	17713	959253	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: At § 87(2)(b) in Brooklyn, officers used physical force against § 87(2)(b)	§ 87(2)(b)
B. Officers	Force: At § 87(2)(b) in Brooklyn, officers used physical force against § 87(2)(b)	§ 87(2)(b)
C. POM Nicholas Viruet	Force: At § 87(2)(b) in Brooklyn, Police Officer Nicholas Viruet used physical force against § 87(2)(b)	§ 87(2)(b)
D. An officer	Force: At § 87(2)(b) in Brooklyn, an officer used physical force against § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
E. Officers	Force: At § 87(2)(b) in Brooklyn, officers restricted § 87(2)(b)'s breathing.	
F.POF Stacey Hulse	Abuse: At the 73rd Precinct stationhouse, Police Officer Stacey Hulse strip-searched § 87(2)(b)	
G.POF Stacey Hulse	Off. Language: At the 73rd Precinct stationhouse, Police Officer Stacey Hulse made remarks to § 87(2)(b) based upon § 87(2)(b)'s gender identity.	
H.POF Stacey Hulse	Discourtesy: At the 73rd Precinct stationhouse, Police Officer Stacey Hulse acted discourteously toward § 87(2)(b)	

Case Summary

On February 28, 2017, § 87(2)(b) filed this complaint via the CCRB's website on behalf of himself and his sons, § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b).

On February 24, 2017, at approximately 10:20 p.m. PO Stephanie Williams, PO Jonathan Aquino, Lt. Stephan Sperrazza and PO Sean Slowski, all of the 73rd Precinct, § 87(2)(b) in Brooklyn, in regards to a radio run for an emotionally disturbed person. § 87(2)(b) and § 87(2)(b) were being ejected from the facility. Upon arrival, Lt. Sperrazza informed § 87(2)(b) that he and his family needed to leave the location. § 87(2)(b) initially refused, but ultimately left with § 87(2)(b) and § 87(2)(b). Approximately 20 additional officers from both the 73rd and 75th Precinct arrived as backup, including PO Aaron Meneses and PO Nicholas Viruet, both of the 73rd Precinct.

As the civilians exited the shelter, two unidentified officers pushed § 87(2)(b) (**Allegation A**) and an unidentified officer allegedly punched him in the face (**within Allegation A**). § 87(2)(b) tripped and fell to the ground, at which point the same unidentified officer allegedly punched § 87(2)(b) four additional times in the head (**within Allegation A**). § 87(2)(b) attempted to approach § 87(2)(b) and unidentified officers allegedly brought § 87(2)(b) to the ground (**Allegation B**). § 87(2)(b) attempted to approach § 87(2)(b) and § 87(2)(b). PO Viruet blocked § 87(2)(b) from doing so and swung at him with closed fists. § 87(2)(b) raised his forearms in front of his face to block PO Viruet's punches and PO Viruet allegedly punched § 87(2)(b)'s arms four times (**Allegation C**). An unidentified officer allegedly pushed § 87(2)(b) to the ground (**Allegation D**). Once on the ground, approximately six unidentified officers placed their knees against § 87(2)(b)'s back, restricting his breathing (**Allegation E**).

§ 87(2)(b) and § 87(2)(b) were handcuffed and transported to the 73rd Precinct stationhouse. There, § 87(2)(b) was escorted to a holding cell by PO Stacey Hulse and PO Ruth Donald, both of the 73rd Precinct. PO Hulse strip-searched § 87(2)(b) who is a transgender man (**Allegation F**). During the strip search, PO Hulse removed a prosthetic penis that § 87(2)(b) wore between his underwear and jeans. PO Hulse allegedly stated, "Oh my god. I gotta touch that" and allegedly threw the prosthetic penis onto the ground (**Allegation G, Allegation H**).

§ 87(2)(b) was arrested for § 87(2)(a) 160.50 (Board Review 01), but his criminal court case was adjourned in contemplation of dismissal (Board Review 02). § 87(2)(b) was issued a § 87(2)(a) 160.50 summons, which was ultimately dismissed (Board Review 03). § 87(2)(b) was arrested as a juvenile, though the NYPD had no record of this report (Board Review 08).

Video surveillance footage from § 87(2)(b) captured parts of this incident and a SnagIt copy has been placed below. The original footage can be found in IA #58 (Board Review 04) and the summary can be found in IA #195 (Board Review 05). Two unidentified officers are seen pushing § 87(2)(b) who appears to attempt to re-enter the facility, and numerous officers are seen bringing § 87(2)(b) to the ground. The video does not clearly depict § 87(2)(b) or § 87(2)(b)'s interactions with officers. The footage is mainly black and white, grainy, shot from an elevated angle, and does not provide any view of officers' faces, names, or shield numbers.



201701559_20171025_1322_DM.mp4

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Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- A Notice of Claim has not been filed with the NYC Comptroller's Office regarding this incident (Board Review 06).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is second CCRB complaint involving § 87(2)(b) and § 87(2)(b) (Board Review 10, Board Review 11, Board Review 12). § 87(2)(b)
- This is the first CCRB complaint filed against PO Viruet, a four-year-member-of-the-service, and PO Hulse, a one-year-member-of-the-service.

Potential Issues

The 73rd Precinct's Prisoner Holding Pen Roster (Board Review 13) identified two women, § 87(2)(b) § 87(2)(b) and § 87(2)(b) as present in the holding cells at the same time as § 87(2)(b) § 87(2)(b) but both potential witnesses were unavailable to the investigation (see IAs for review of the extensive contact attempts).

Findings and Recommendations

Explanation of Subject Officer Identification

Though PO Viruet (Board Review 17) denied using force against § 87(2)(b) as alleged, § 87(2)(b) identified the officer who used force against him as one of his transport officers and he described him as a white man with dark hair who was partnered with an Asian man. In his CCRB interview, PO Viruet acknowledged that he and PO Meneses transported § 87(2)(b) to the 73rd Precinct stationhouse. PO Viruet identified himself as a Hispanic man with dark hair in his CCRB Interview Report Worksheet (Board Review 18), and PO Meneses identified himself as an Asian man in his CCRB Interview Repot Worksheet (Board Review 19).

§ 87(2)(g)

Allegation A- Force: At § 87(2)(b) in Brooklyn, officers used physical force against § 87(2)(b)

Allegation B – Force: At § 87(2)(b) in Brooklyn, officers used physical force against § 87(2)(b)

§ 87(2)(b) (Board Review 14) testified that he was the first of his family members to exit the shelter, and that upon doing so, he attempted to go back inside to make sure § 87(2)(b) did not forget anything. An unidentified officer was entering at the same time, and

allegedly punched him in the face. § 87(2)(b) then tripped and fell to the ground, at which point, the unidentified officer allegedly punched § 87(2)(b) four additional times in the head.

§ 87(2)(b) (Board Review 15, Board Review 37, Board Review 38) testified that after he exited the shelter, he attempted to approach § 87(2)(b) who was surrounded by five officers. § 87(2)(b) could not describe who or how many officers then threw § 87(2)(b) to the ground.

§ 87(2)(b) (Board Review 20) and § 87(2)(b) (Board Review 21) both said § 87(2)(b) and § 87(2)(b) were each brought to the ground by numerous officers, but could not identify these officers. § 87(2)(b) (Board Review 22) and § 87(2)(b) (Board Review 23) denied witnessing these aspects of the incident.

None of the officers interviewed acknowledged using any of the physical force alleged by § 87(2)(b) and § 87(2)(b). PO Williams (Board Review 24) prepared TRI reports (Board Review 25, Board Review 26, Board Review 27) that note the use of forcible takedowns, but she testified that when she exited the shelter, § 87(2)(b) was already on the ground, and she denied that she saw any officers interact with § 87(2)(b). Lieutenant Sperrazza instructed her to prepare the TRI reports.

Lieutenant Sperrazza (Board Review 28) testified that § 87(2)(b) and § 87(2)(b) were both brought to the ground, but he could not recall how this was done or which officers participated. Lieutenant Sperrazza denied that he was a participant and denied that he used any physical force on § 87(2)(b) or § 87(2)(b).

PO Meneses (Board Review 29), PO Slowski (Board Review 30), PO Viruet, and PO Aquino (Board Review 31) testified that § 87(2)(b) and § 87(2)(b) were already on the ground and secured by the time they arrived on scene.

Lieutenant Sperrazza, PO Williams, PO Aquino, PO Slowski, PO Viruet, and PO Meneses were all unable to identify any additional officers who responded to the location as backup, despite reviewing video footage of this incident. The Event (Board Review 32) indicates that at least one unit from the 75th Precinct responded to the scene.

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§ 87(2)(g)

Allegation C – Force: At § 87(2)(b) in Brooklyn, Police Officer Nicholas Viruet used physical force against § 87(2)(b)

Allegation D – Force: At § 87(2)(b) in Brooklyn, an officer used physical force against § 87(2)(b)

Allegation E – Force: At § 87(2)(b) in Brooklyn, officers restricted § 87(2)(b)'s breathing.

§ 87(2)(b) (Board Review 16) testified that after he exited the shelter, he attempted to approach § 87(2)(b) and § 87(2)(b). PO Viruet allegedly swung at § 87(2)(b) but did not make contact with him. In response, § 87(2)(b) raised his arms in front of his face to block PO Viruet's strikes. PO Viruet allegedly punched § 87(2)(b)'s raised arms four times. An officer, § 87(2)(b) could not identify or describe who, allegedly pushed him in his back, causing him to fall to the ground. Approximately six unidentified officers allegedly placed their knees against § 87(2)(b)'s back, which allegedly restricted his breathing.

Both § 87(2)(b) and § 87(2)(b) testified that they saw § 87(2)(b) on the ground, but that they did not otherwise see his prior interactions with officers.

§ 87(2)(b) and § 87(2)(b) both said § 87(2)(b) was brought to the ground by numerous officers, but could not identify these officers.

PO Viruet testified that upon his arrival, he observed § 87(2)(b) lying handcuffed chest-down on the sidewalk with an unidentified officer kneeling next to him. PO Viruet denied that § 87(2)(b) attempted to approach his family members. PO Viruet denied that he used any physical force against § 87(2)(b).

No other officers acknowledging using any of the physical force against § 87(2)(b) or witnessing any other officer do so.

The TRI Report prepared for § 87(2)(b) indicates the use of a forcible take down against § 87(2)(b) but makes no mention of hand strikes or additional force being used against him, nor does it identify the officer who brought him to the ground.

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§ 87(2)(g)

Allegation F – Abuse: At the 73rd Precinct stationhouse, Police Officer Stacey Hulse strip-searched § 87(2)(b)

Upon his arrival at the 73rd Precinct stationhouse, PO Donald frisked § 87(2)(b) who is a transgender man. § 87(2)(b) testified that he wore a nine-inch prosthetic penis against his leg, completely covered and held in place by his underwear. The head of the prosthetic penis pointed upwards, and its testicles were positioned toward the bottom of § 87(2)(b)'s underwear. § 87(2)(b) was informed that the prosthetic penis needed to be removed. § 87(2)(b) was escorted to the holding cells by PO Williams, PO Donald, and PO Hulse. § 87(2)(b) stood with his back to a wall and with the front of his body facing the holding cells, which had two female prisoners lodged inside. § 87(2)(b) alleged that PO Hulse unzipped his pants, reached one hand approximately one inch inside of his underwear, and pulled the prosthetic penis out.

PO Hulse (Board Review 34, Board Review 39) testified that she and PO Donald brought § 87(2)(b) to the holding cells. PO Hulse did not speak with a supervisor or any other officer regarding this aspect of the incident. In front of the holding cells, PO Hulse patted along § 87(2)(b)'s waistband and felt a hard object shaped like a penis. PO Hulse asked what the object was and § 87(2)(b) stated, "It's my dick." Procedurally, the prosthetic penis needed to be removed because it could contain contraband or be used as a weapon.

PO Hulse lifted § 87(2)(b)'s shirt, exposing the head of the prosthetic penis, which was sticking out from the top of § 87(2)(b)'s pants. PO Hulse could not recall how much of the prosthetic penis was exposed. PO Hulse then grabbed onto the exposed portion of the prosthetic penis and pulled it with the intent of removing it. However, the prosthetic penis did not move. PO Hulse asked § 87(2)(b) if the prosthetic penis was a "strap on" and § 87(2)(b) replied, "No. It's my dick." PO Hulse grasped the same portion of the prosthetic penis

again and pulled harder, at which point the prosthetic penis was successfully removed from § 87(2)(b)'s pants. PO Hulse denied that she did anything else to facilitate the removal of the prosthetic penis, including unbuttoning, unzipping, or otherwise undoing § 87(2)(b)'s pants. PO Hulse denied that § 87(2)(b)'s underwear was exposed, and denied that her actions constituted a strip search. When asked why she did not take § 87(2)(b) to a more private area to remove his prosthetic penis, PO Hulse testified that outside of the female holding cells was a private area.

PO Donald (Board Review 33) testified that while frisking § 87(2)(b) at the stationhouse front desk, she felt a hard object inside of § 87(2)(b)'s pants. PO Donald believed the object was a prosthetic penis because § 87(2)(b) repeatedly yelled, "Suck my dick!" PO Donald and PO Hulse brought § 87(2)(b) to the holding cells. PO Donald asked if § 87(2)(b) had anything that could poke him and he replied, "My dick." PO Donald and PO Hulse each patted down § 87(2)(b)'s legs and PO Hulse removed the prosthetic penis from § 87(2)(b)'s pants.

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One of the officers, PO Williams could not recall who, reached inside of § 87(2)(b)'s pants and pulled the prosthetic penis out. PO Williams was unable to describe this aspect of the incident in more detail.

Neither § 87(2)(b)'s arrest report nor his command log entry (Board Review 35) indicate that a strip search was conducted or approved by a supervising officer.

According to NYPD Patrol Guide, Procedure 208-05 (Board Review 36), a strip search is any search in which an individual's undergarments (e.g., bra, underwear, etc.) and/or private areas are exposed or in which an individual's clothing is removed, lifted up, or pulled down to expose undergarments or private areas. A strip search may be conducted with the approval of the arresting officer's immediate supervisor, if the arresting officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in their clothing in such a manner that they may not be discovered by previous search methods, and must be conducted in a private area.

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[REDACTED]

Allegation G – Offensive Language: At the 73rd Precinct stationhouse, Police Officer Stacey Hulse made remarks to § 87(2)(b) based upon § 87(2)(b)'s gender identity.

§ 87(2)(b) alleged that after PO Hulse removed the prosthetic penis, she stated, "Oh my god. I gotta touch that" and laughed.

PO Hulse denied saying anything along the lines of “Oh my god. I gotta touch that” or laughing.

No officer interviewed acknowledged hearing the alleged statement.

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Allegation H – Discourtesy: At the 73rd Precinct stationhouse, Police Officer Stacey Hulse acted discourteously toward § 87(2)(b)

§ 87(2)(b) alleged that after PO Hulse removed the prosthetic penis from her pants, she threw it onto the floor.

PO Hulse acknowledged that she put the prosthetic penis on the floor after she removed it, but she denied that she threw it. She said she placed it on the floor while she completed searching § 87(2)(b)

PO Donald did not recall what happened to the prosthetic penis after it was removed from § 87(2)(b) PO Donald never saw the prosthetic penis on the floor, and denied seeing PO Hulse throw it. PO Williams testified that either PO Hulse or PO Donald handed her the prosthetic penis and she placed it in one of § 87(2)(b)'s bags. PO Williams denied that she saw any officer throw the prosthetic penis.

According to NYPD Patrol Guide, Procedure 203-09 (Board Review 40), an officer must be courteous and respectful while interacting with the public.

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Squad: #14

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date